

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA**

KELLY MILLIGAN,  
ON BEHALF OF HIMSELF AND  
ALL OTHERS SIMILARLY SITUATED,

Plaintiff,

v.

MERRILL LYNCH, PIERCE, FENNER &  
SMITH INC., BANK OF AMERICA CORP.,  
and JOHN/JANE DOE 1, THE SENIOR VICE  
PRESIDENT–HUMAN RESOURCES  
GLOBAL BANKING AND GLOBAL  
WEALTH AND INVESTMENT  
MANAGEMENT ADMINISTRATION AT  
BANK OF AMERICA CORP.,

Defendants.

Case No. 3:24-cv-00440-KDB-DCK

Judge Kenneth D. Bell  
Magistrate Judge David Keesler

**DEFENDANTS' UNOPPOSED MOTION TO FILE CERTAIN EXHIBITS TO  
THEIR MEMORANDUM OF LAW IN SUPPORT OF THEIR  
MOTION FOR SUMMARY JUDGMENT UNDER SEAL**

Pursuant to Rule 5.2(d) of the Federal Rules of Civil Procedure and Local Rule 6.1 Defendants Merrill Lynch, Pierce, Fenner & Smith Inc. (“Merrill Lynch”) and Bank of America Corp. (“Bank of America”) (together, “Defendants”) hereby move the Court to enter an order allowing Defendants to file a copy of certain exhibits to Defendants’ Memorandum of Law in Support of their Motion for Summary Judgment, as well as an unredacted version of such Memorandum of Law, under seal. Defendants have conferred with Plaintiff concerning this Motion, and Plaintiff does not oppose the relief requested herein.

Specifically, Defendants seek to file the following materials under seal:

- An unredacted version of Defendants’ Memorandum of Law in Support of their Motion for Summary Judgment.
- Exhibit 1 – An unredacted version of the Declaration of Susanne Testani;

- Exhibit 3 – An unredacted version of the Declaration of Tim Shook;
- Exhibit B – 2015 Financial Advisor Incentive Compensation Plan;
- Exhibit C – 2016 Financial Advisor Incentive Compensation Plan;
- Exhibit D – 2017 Financial Advisor Incentive Compensation Plan;
- Exhibit E – 2018 Financial Advisor Incentive Compensation Plan;
- Exhibit F – 2019 Financial Advisor Incentive Compensation Plan;
- Exhibit G – 2020 Financial Advisor Incentive Compensation Plan; and
- Exhibit S – An unredacted version of Plaintiff's 2019 WealthChoice Award Agreement.

The grounds for this relief are more fully set forth in Defendants' accompanying Memorandum in Support of this Motion to Seal.

WHEREFORE, Defendants respectfully request that the Court grant this Motion and enter an Order that Defendants may file the documents listed above under seal.

This is the 30<sup>th</sup> day of September 2024.

Respectfully submitted,

By: /s/ Robert A. Muckenfuss

MORGAN, LEWIS & BOCKIUS LLP  
Samuel S. Shaulson (*pro hac vice forthcoming*)  
600 Brickell Avenue  
Miami, FL 33131  
T: (305) 415-3000  
F: (305) 415-3001  
samuel.shaulson@morganlewis.com

Sari M. Alamuddin (*pro hac vice*)  
Matthew A. Russell (*pro hac vice*)  
Eric M. Makinen (*pro hac vice*)  
110 North Wacker Drive, Suite 2800  
Chicago, IL 60606  
(312) 324-1000  
(312) 324-1001 (fax)  
sari.alamuddin@morganlewis.com  
matthew.russell@morganlewis.com  
eric.makinen@morganlewis.com

MCGUIRE WOODS LLP  
Robert A. Muckenfuss, NC State Bar #28218  
Zachary L. McCamey, NC State Bar #53540  
201 North Tryon Street, Suite 3000  
Charlotte, NC 28202  
T: (704) 343-2000  
F: (704) 343-2300  
zmccamey@mcguirewoods.com  
rmuckenfuss@mcguirewoods.com

*Attorneys for Defendants*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 30<sup>th</sup> day of September 2024, the foregoing was filed with the Court using the CM/ECF system.

*/s/ Robert A. Muckenfuss*

Robert A. Muckenfuss